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Paper No. 8

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MAY 10 2002

OFFICE OF PETITIONS

In re Application of :
Thomas Dean Gulley :
Application No. 10/080,818 :
Filed: February 22, 2002 :
Attorney Docket No. 46893/DRK/S1050 :
Title: THREE-PIECE BARREL HINGE :

DECISION ACCORDING STATUS
UNDER 37 C.F.R. §1.47(b)

This is in response to the "Petition under 37 CFR 1.47(b) and MPEP 409.03," filed February 22, 2002. Receipt of the letter filed April 22, 2002, noting the previous filing of this petition on February 22, 2002 is acknowledged.

The petition is **GRANTED**.

The above-identified application was filed on February 22, 2002, with an unexecuted declaration and the instant petition (and fee) under §1.47(b). Thomas Dean Gulley was named as sole inventor. Rule 47 applicant asserts that status under §1.47(b) is proper because sole inventor Gulley refuses to execute the application and refuses to cooperate with the prosecution of the application.

In support thereof, rule 47(b) applicant submitted *inter alia*:

- another copy of the unexecuted declaration;
- declarations by Larry Myrick, President of rule 47(b) applicant Sierra Pacific Engineering and Products; George Alvarado, Engineering Manager of rule 47(b) applicant; and Todd M. Kawai, Controller and Human Resource Manager of rule 47(b) applicant;
- a copy of the executed assignment from inventor Gulley to rule 47(b) applicant; and
- a petition including a statement of the last known address of sole inventor Gulley.

In addition, on May 9, 2002, rule 47(b) applicant submitted a statement under 37 CFR 3.73(b) and a revised declaration for patent executed by Larry Myrick on behalf of sole inventor Gulley.

A grantable petition under 37 C.F.R. §1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) proof that the filing of the application is necessary (i) to preserve the rights of the parties or (ii) to prevent irreparable damage.

The declarations of Messrs. Myrick, Alvarado and Kawai are found sufficient to show that i) non-signing inventor Gulley has refused to join in the application after having been presented with the application papers, and ii) filing of the application is

necessary to preserve the rights of rule 47 applicant. Further, a review of the executed assignment reveals that it clearly indicates that the invention described in the 37 CFR 1.47(b) application was assigned to the rule 47(b) applicant. In addition, rule 47(b) applicant paid the petition fee and included a statement of the non-signing inventor's last known address in the petition.

However, as filed initially, the petition was deficient because rule 47(b) applicant had not established proprietary interest and had not provided an acceptable oath or declaration. The assignment was not accompanied by a statement under 37 CFR 3.73(b) by the assignee¹ and the declaration was unexecuted.

The statement under §3.73(b) and the revised declaration filed May 9, 2002, cured those deficiencies.

The declaration filed May 9, 2002, and the petition filed February 22, 2002 have been reviewed and found in compliance with 37 CFR 1.47(b).

This application is hereby accorded Rule 1.47(b) status.

As provided in new Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the declaration. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being returned to the Office of Initial Patent Examination for completion of pre-examination processing.

Telephone inquiries regarding this decision should be directed to Petitions Attorney Nancy Johnson at (703) 305-0309.

Christina Tartua Donnell for

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

¹ See MPEP §§ 409.03(f), 324



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MAY 10 2002

In re Application of :
Thomas Dean Gulley :
Application No. 10/080,818 : LETTER
Filed: February 22, 2002 :
Attorney Docket No. 46893/DRK/S1050 :
Title: THREE-PIECE BARREL HINGE :

OFFICE OF PETITIONS

Dear Mr. Gulley:

You are named as the sole inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 118 (United States Code) and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as the sole inventor.

As the named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Nancy Johnson at (703) 305-0309. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Christina Partera Donnell for

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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